

Serial No. 10/522,973
Art Unit 2114

PU020362
Customer No. 24498

Remarks

Claims 1-3, 5-8 and 11 remain in this application and stand rejected following the Official action of July 5, 2007. Applicants have carefully reviewed the rejections and respond as follows:

Claims 2, 3, 5, 7 and 8 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant acknowledges the confusion created by the language "at least one command" resulting from the previously entered amendment to independent claims 1 and 6.

Applicant has amended claims 1 and 6 to correct this confusion. Reconsideration and withdrawal of the rejection is respectfully requested.

35 U.S.C. §102(e) Rejection of Claims 6-10

Claim 6-8 stand rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent Application Publication No. 2003/0126315, published July 3, 2003, from an application in the name of Choon-Seng Tan et al., filed December 28, 2001. This rejection is essentially identical to the previous rejection by the Examiner put forth in the office action of February 7, 2007. In asserting this rejection, again the Examiner has cited paragraphs 0044 and 0046 of Tan et al as showing the "queuing" step, "canceling" step and "issuing commands" steps of the present principles as recited in independent claim 6.

As stated previously by the applicant, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.: *Verdegaal Bros. v Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed Cir. 1987), MPEP 2131

Applicant has again reviewed these cited paragraphs in Tan et al, and can find no mention, or suggestion of applicant's claimed principles. In fact, concept of canceling the outstanding requests is no where disclosed or suggested. In fact, paragraph 0044 states "The failover action in this embodiment is to activate the standby controller and resend all outstanding commands."

There is no teaching, disclosure or suggestion by Tan et al. that the commands are queued and "canceled" as set forth by the present principles. Furthermore, the redundant system teachings of Tan et al. cannot cancel the

Serial No. 10/522,973
Art Unit 2114

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commands meant for a particular controller, because if they did, such commands could not then be sent on the redundant path being established. Paragraph 0046 of Tan et al. specifically states "A condition that may be set for this failure is that the standby controller is operable and the write cache is synchronized. The failover actions taken when this condition is found include activating the standby controller, sending previously outstanding and timeout commands, and event notifying the host to indicate the active path failed and the path is no longer redundant." Since Tan et al. is specifically directed to a "redundant" system, there is no teaching of canceling commands when one of the redundant paths has been identified with a failure.

Claim 6 has been amended to clarify the canceling of the commands for the original port as taking place after the queuing step. This concept is neither disclosed, nor remotely suggested by the teachings of Tan et al. Therefore, Tan et al. taken singly or in combination with any other reference cannot anticipate and/or render obvious the claimed invention as set forth in claim 6. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 7-8 depend from claim 6 and are believed to be patentable for at least the reasons cited with respect to independent claim 6.

35 U.S.C. §103(a) Rejection of Claims 1-3

Claims 1-3 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 20030126315 to Tan et al., in view of the of the definition of "real time" provided in the Microsoft Computer Dictionary.

As with the Applicant's representative's comments regarding claim 6, It is respectfully submitted that it is the Examiner's burden to show Tan et al explicitly or inherently discloses: "means for queuing of requests designated for an original port to an alternative port" and/or the "means for canceling of all outstanding requests on the original port." Another review of paragraphs 0044 and 0046 of Tan et al. fails to shed light on these two aspects of applicant's claimed principles. The "canceling" referred to by Tan et al (i.e., through the inactivation of a controller) does not address the fact that such cancellation would result in lost information in the system of Tan et al.

Notwithstanding the foregoing, applicant has amended independent claim 1 to clarify the present principles. In particular, the canceling takes place after the queuing of the original requests. Since neither the concept of "queuing" nor

Serial No. 10/522,973
Art Unit 2114

PU020362
Customer No. 24498

"canceling" as set forth by the present principle is disclosed or remotely suggested by the teachings of Tan et al., the combination of the same with the definition of real time also fails to obviate applicant's claimed principles. Reconsideration and withdrawal of the rejection is respectfully requested.

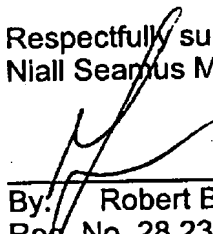
Claim 11 has been amended to be an independent claim and is believed to be allowable over the cited prior art.

Conclusion

In view of the foregoing amendments to the claims and the accompany remarks, applicants solicit entry of this amendment and allowance of the claims. If, however, the Examiner believes such action cannot be taken, the Examiner is invited to contact the applicant's attorney at (609) 734-6820, so that a mutually convenient date and time for a telephonic interview may be scheduled.

Kindly charge the cost of the additional independent claim, as well as any other fees that may be due, to Deposit Account 07-0832.

Respectfully submitted,
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